

OGC HAS REVIEWED.

9 October 1953

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Restrictions and Obligations on CIA Careerists

1. PROBLEM:

Should similar restrictions and obligations be placed on CIA Career employees and should there be statutory recognition of them?

Note: This paper represents the opinions, conclusions, and recommendations of a majority of the Task Force. While there has been substantial agreement on some aspects, no single statement should be taken to represent the views of all members of the Task Force.

2. FACTS BEARING ON THE PROBLEM:

a. As a matter of legal concept, employees of Government agencies are subject to the proper regulations of an agency on the theory that such regulations are part of their employment contract.

b. Employees of CIA are subject, in widely varying degrees, to an obligation to serve CIA at any place on an on-call basis as the needs of the service dictate.

c. Today there is no obligation placed on an employee of CIA that he will make a career of his service in the Agency. There are being secured, in certain cases, statements of intent which may modify the above to the extent that there is some kind of moral obligation created.

3. DISCUSSION:

a. The attached Tab A includes a listing of sample restrictions and proposed obligations which are considered pertinent for policy decision and possible inclusion in legislation.

(1) The matter of an individual assuming an obligation as a careerist to serve anywhere, any time, and for any type of duty, is one which goes to the heart of the Career Service concept. The attached tab relates each principle involved to the stated concept of the CIA Career Service.

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(2) [REDACTED]

The discussion in Tab A indicates that in fact most of the restrictions in this field are in effect but statutory recognition would lend some strength. Further it would illustrate the peculiar and unique situations in which a CIA careerist must expect to live and conduct his personal life.

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(3) The general statement concerning submission of resignations for consideration by the DCI serves to foster the concept of a careerist devoting himself permanently to the needs of the intelligence service. The more detailed discussion also illustrates the useful by-product of this situation wherein a more orderly system of considering resignations would save many potentially useful assets to the service.

(4) The general restrictions relating to prohibitions on activities while abroad are substantially similar to some of those contained in the Foreign Service Act of 1946. They are considered useful in legislation only as a part of the over-all picture. It is considered that offering restrictions of this type could be extremely dangerous since hasty action in the Congress could impose an impossible condition based on a particular Congressman's lack of knowledge of the true nature of CIA activities.

b. The answer to the question of whether legislation is necessary will depend on the definition of "necessary." In the context of whether or not CIA would be prevented by lack of legislation from performing its functions, the answer would be "no." If, however, in the context of whether in the long run such legislation would assist in developing a highly qualified professional intelligence service thereby improving the end product--namely, intelligence--then the answer would be "yes."

c. It is also agreed that to apply the "essential" standard to each item would result in a "no." However, by the same token if you applied the question of essentiality to an individual brick in the wall of a house, the answer again would be "no." It is believed, therefore, that this is a type of situation where the entire package must be considered. For this purpose we must go beyond the subject of this study. If we are to have Career Service legislation, obligations are an essential part of the picture and the various parts are mutually supporting and dependent. The entire bill, establishing obligations, granting benefits, and creating a concept of a long range career service fosters the growth of tradition and "esprit de corps." To many, a "CIA Career Service Act of 1954" would be something tangible to which one could look in way of "what does the Career Service Program mean to me?" The obligations part of such an Act would make more clear to the various employees some of the obligations which they in fact accept now. It can be argued on the other hand that these obligations legally can be imposed by administrative action. Therefore, if the Agency were to adopt the principles as policy and put them into the regulatory system, they would be as firmly binding as other conditions of employment.

d. If CIA believes that its Career Service should demand of its people that they accept the above obligations, it should tell the Congress of the United States what it expects of its people. This is particularly so if we request the Congress to confer additional privileges which are not available to the normal Civil Service employee. In this manner we not only explain why the Agency believes it needs such authorization but also clarify to the careerist himself what is expected of him.

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e. The actual task of translating any specific restrictions and obligations into proposed legislation should be done with painstaking care. Such language should be completely responsive to what CIA determines it should be able to expect and demand of its career employees. There will be no immediate additional costs to CIA by virtue of the enactment of legislation on this subject. On the contrary it is believed statutory recognition of certain of these principles combined with the other aspects of career legislation will in the long run save costs. Such savings would come through decreased turnover and consequently decreased necessity for training other people.

4. CONCLUSIONS:

a. Statutory recognition of Career Service lends dignity and substance to the particular career service to which it relates, fostering a growth of tradition and "esprit de corps."

b. There should be statutory recognition of the concept that obligations are placed on CIA career employees.

c. Statutory recognition of that concept should only be a part of an over-all legislative proposal on the subject of Career Service.

d. All CIA career employees should be subject to similar fundamental obligations and each employee should be made aware of his specific obligations.

e. Certain of the specific obligations which could be accorded statutory recognition are set forth in Tab A.

f. Restrictions of the type included in Tab A should not be offered in a legislative proposal, but should be studied carefully in order to be prepared if appropriate agencies, including the Congress, demand precautionary provisions in the package bill.

5. RECOMMENDATIONS:

a. In view of the fact that there are differing views on this general subject, it is urged that the CIA Career Service Board give careful consideration to the discussions and conclusions with a view of arriving at its own conclusions or in the alternative the Board may wish to have this matter studied further.

b. That the policy inherent in the conclusions be approved by the CIA Career Service Board with the consideration of the necessity or desirability of legislation on the subject.

c. That the CIA Career Service Board approve the conclusions and forward to the DCI for approval.

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d. If the above is accomplished and if it is determined that there is to be a general Career Service Law, then:

(1) The Office of the General Counsel be directed to prepare appropriate legislation.

(2) The Office of the Assistant Director (Personnel) be directed to prepare appropriate justification.

(3) The Deputy Director (Administration) be requested to assume responsibility for action.

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TAB A

DISCUSSION OF SPECIFIC RESTRICTIONS AND OBLIGATIONS

1. At the recent meeting of the CIA Career Service Board there was considered the preliminary report of the Legislative Task Force, dated 13 August 1953. From the discussion it is believed we have to assume that the Career Service Board adopted a concept of the CIA Career Service which was stated in the preliminary report as follows:

"The Career Service is a group of dedicated people, carefully selected and extensively trained, who accept an obligation to devote themselves permanently to the needs of the intelligence service of the U. S. Government in return for which they would receive the satisfaction of a job well done and such emoluments and benefits as are appropriate to such a service including the expectancy of a permanent career in CIA."

2. "A CIA Career Employee accepts the obligation to serve any place in the world and at any time and, for any kind of duty as determined by the needs of CIA."

This provision is responsive to the career concept quoted above that the Career Service is a group of people who accept obligations to devote themselves to the needs of the intelligence service.

a. This concept has the additional advantage of making it clear that CIA is applying one standard of obligations to its Career Service people. By doing so there results a concept of one group of CIA career people as opposed to two or more groups of specialists within CIA.

b. The application of a single standard of obligations to all careerists will create additional flexibility in the utilization of manpower. When a need arises for an individual at a particular spot, the determination of what individual will serve will be determined on the basis of the best qualified man and the relative priorities of tasks, rather than the basis of availability and the necessity for further determining what the individual's personal preferences might be. Good administration, of course, would dictate that personal preferences as to posts of assignment be taken into consideration in determining specific assignments. However, the primary consideration at all times should and must be the needs of the service.

c. In a concept of this type, CIA at this time must take into account the many employees who were brought on duty to fill a specific departmental job and who in many cases indicated in various personnel documents that they would accept appointment only for duty in Washington. Those persons could be considered

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as being exempt from the obligation of serving elsewhere in the world. In the meantime, all incoming personnel who desire to become careerists would be requested to accept in full the obligations to be established by CIA. In similar manner, it is contemplated there will be specific personnel situations or even small groups of people who are brought into the Agency to fill specific short-term needs. While those employees would be afforded full benefits which staff employees at the present time enjoy, they would not be considered either by themselves or by the Agency as careerists. At the present time CIA regulations provide that all staff employees, per se, are career employees. Obviously, the regulation does not reflect the true situation. There are specific cases where individuals are employed by CIA while on leave of absence from private concerns with a definite view in mind of returning after a term of service, for example, two years. Under the proposed concept, he would enjoy the same staff-employee benefits, but there would be true recognition that he was not a part of the career program. It is hoped that exceptions of this type would be relatively few, but sufficient flexibility should be maintained in order to accommodate the needs of the Agency.

3. "CIA employees are subject to duly authorized security regulations relating to the responsibility of the Director of Central Intelligence for protection of intelligence sources and methods from unauthorized disclosure."

This too is responsive to the concept of a group of dedicated people accepting an obligation to devote themselves to the needs of the intelligence service.

b. In connection with this particular provision there should be accorded recognition of the present restrictions which actually do surround the average employee of CIA which are not normally present in any other Government agency. Anonymity is the price many professionals must pay as a career employee of CIA. The lawyer, the researcher, the analyst and others cannot as a matter of general privilege in common with their brethren, from time to time participate in meetings of the various professional societies nor can they produce for publication the cumulative results of their life's work. There are additional restrictions on the personal life of every CIA employee which touch the fields of corresponding with friends, securing credit, and after-hours vocations.

4. "The CIA Career employee contemplating departure from the service shall be required to submit a resignation through channels prescribed by the Director of Central Intelligence."

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This provision relates to the concept of career people devoting themselves permanently to the needs of the intelligence services. The wording of this provision as well as the intent is not that the individual should be restricted in his freedom to resign when he believes it necessary or desirable. It is the intent of this provision that it state an objective of CIA establishing a Career Service to which as many of the employees as possible would devote their careers. This provision requires no legislation to put it into effect. Any legislative expression of the intent here would be confined to a statement of the objective as indicated above.

a. The assertion of such a principle in statute can go far toward establishing a tradition of lifetime service in CIA. Any Career Service is more than the words of the laws and regulations creating it. There are intangible factors and traditions coupled with the actuality of lifetime service which are of great importance.

b. It is believed that this type of provision produces a very useful by-product. In prescribing the channels for submitting resignations, the DCI presumably would establish either a board or a central point. This would assist the present machinery designed to insure orderly consideration of all resignations from the service.

5. It has been suggested that in considering any over-all legislation relating to Career Service, CIA should incorporate certain prohibitions directed at activities of employees. The Foreign Service Act of 1946 provides certain examples. After careful consideration on the subject of restrictions, it is believed that it would be undesirable to incorporate in any Career Service legislation suggestions for statutory restrictions. The principal concern here is that such restrictions would quite possibly suggest others of a type which might seriously damage the Agency program. Experience with the Congress indicates that situations of this type can occur. However, it is believed that careful study be given to various restrictions that might be suggested for inclusion in order that the Agency might be prepared to accept those which did not impair its functions. Suggestions of such restrictions are listed below and have been taken from the Foreign Service Act and paraphrased to meet CIA purposes. Some of them may not be well adapted for CIA, but in any event this group is not advocating these particular examples since no serious discussions have been given to the merit of the specific provisions.

"a. An officer or employee of CIA shall not wear any uniform except such as may be authorized by law, or such as a military command may require civilians to wear in a theater of military operations, or as may be authorized by the Director.

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b. An officer or employee of CIA shall not ask nor, except as authorized by the Director, receive for himself or any other person, any present, emolument, pecuniary favor, office, or title from any foreign government.

c. An officer or employee of CIA shall not transact or be interested in any business nor engage for profit in any profession in the country to which he is assigned abroad in his own name, or in the name of the Agency, or any other person, except as authorized by the Director.

d. An officer or employee of CIA shall not correspond in regard to the public affairs of any foreign government except with the proper officers of the United States or as authorized by the Director.

e. An officer or employee of CIA shall not recommend any person for employment in any position of trust or profit under the government of a country to which he is assigned abroad, except as authorized by the Director.

f. In carrying out the provisions of this Act or any other Act relating to CIA, no political test shall be required and none shall be taken into consideration, nor shall there be any discrimination against any person on account of race, creed, color, or sex."

6. The above would serve another useful purpose in fostering Career Service concept.

a. With the above obligations either on the statute books in a CIA Career Service Act or adopted as policy in Agency regulations great weight would be given to the acceptance by an individual of those conditions. The individual having met very strenuous qualifications and having satisfactorily completed a provisional period would tend to feel more seriously about the acceptance of obligations and having done so would also feel a great sense of accomplishment and responsibility to fulfill his obligations.

b. With respect to certain of the obligations, it is true that they are not enforced by penalties in the nature of financial forfeitures. However, in those particular situations it is not believed desirable that there should be such penalties.

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TAB B

DISCUSSION OF THE NECESSITY FOR LEGISLATION

1. It is true that many of the restrictions and obligations do in fact exist. However, the application of these restrictions and obligations is different in various components of the Agency and within a single component they are applied in differing ways to various people, e.g. the obligation to serve abroad is applied throughout the Agency in widely divergent ways. In part, this is based on the fact that many people were hired for departmental jobs with no indication that overseas service would be involved. In other situations the job functions themselves do not lend themselves to utilization of individual services elsewhere but in the departmental area.

2. Since it is our desire to create and foster a concept of unified CIA Career Service, the uniform application of restrictions and obligations is desirable insofar as possible. While to some extent this standard application could be accomplished administratively, it is believed that the statutory requirement for the acceptance of obligations as a condition precedent to acceptance as a CIA Career Employee, lends dignity and stature to the Career Service concept.

a. At the present time many employees of CIA hear about Career Service but it is an intangible thing apparently not affecting them personally. The statutory recognition of obligations would be extremely meaningful to CIA employees, and would be something tangible to illustrate that there is in fact a Career Service which extends both benefits and demands acceptance of responsibilities.

3. With respect to any specific restriction or obligation, it is not asserted that statutory authority is required to place the provision in effect. However, the same can be said for any one brick in a house. No one brick is essential but put together they establish a useful structure designed to serve a specific purpose.

a. If the matter of restrictions and obligations was the only item to be considered, again it could not be asserted that legislation was essential. However, if there is to be considered in any respect, legislation asking for certain benefits or any type of Career Service legislation, it is believed desirable that the obligations phase be included. In and of themselves, obligations support other parts of any proposed legislation for benefits and serve to clarify the need for the other items. In short the restrictions and obligations are a part of the justification for over-all legislation.

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